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8 **Attorneys for Plaintiff**
Friends of Outlet Creek
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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **OAKLAND DIVISION**

14 FRIENDS OF OUTLET CREEK

15 Plaintiff,

16 vs.

17 GRIST CREEK AGGREGATES, LLC,

18 Defendants.
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Case No. 4:16-CV-00431-JSW

PLAINTIFF'S STATEMENT

Complaint Served: February 29, 2016

(Federal Water Pollution Control Act, 33
U.S.C. § 1251 *et seq.*)

1 PLAINTIFF'S STATEMENT

2 Plaintiff submits the following statement pursuant to the Court's Order Requiring Statement
3 from Parties (Dkt. 84):

4 Plaintiff contends, and has contended, that Defendant violates the Clean Water Act ("CWA")
5 by "discharg[ing] one or more pollutants from a point source into a Water of the United States
6 without CWA permit authorization." Dkt. 35 at 10:6-8 (ECF pagination)(P's & A's ISO MSJ).
7 Defendant raised three legal defenses for summary judgment that (1) "[a] landowner does not
8 'discharge' pollutants within the meaning of the Clean Water Act when it allows upstream
9 discharges to pass through its property without introducing new discharges or pollutants," (2)
10 "Caltrans' existing permit plainly authorizes the highway discharges complained of," and/or (3)
11 "Defendant's [Industrial General Stormwater Permit] expressly contemplates this scenario and
12 states that Defendant is not considered responsible for offsite discharges that flow onto its
13 property." Dkt. 51 at 7:18-23 (ECF pagination)(P's & A's Opp. MSJ).

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15 Respectfully submitted:

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17 Dated: October 22, 2018

GREENFIRE LAW

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19 By: /s/ Rachel S. Doughty
Rachel S. Doughty
20 Attorneys for Plaintiff

21 Dated: October 22, 2018

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23 By: /s/ Jason R. Flanders
Jason R. Flanders
24 Attorneys for Plaintiff

25 **ECF ATTESTATION**

26 I, Jason R. Flanders, hereby attest that Ms. Doughty concurs in this filing. This attestation is made
27 pursuant to Civil Local Rule 5-1.
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